

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE
(PPA) PRODUCTS LIABILITY
LITIGATION,

MDL NO. 1407

This document relates to:

Beard, et al. v. Perrigo Co.,
et al., No. 03-470

ORDER GRANTING MOTION FOR
RECONSIDERATION, VACATING
ORDER, AND SETTING BRIEF-
ING SCHEDULE

This matter comes before the court on the June 9, 2005 Motion for Reconsideration filed by attorney W. Roger Smith, III, of the law firm of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C., former counsel for plaintiffs William Beard and Sara Lepley. Having reviewed this motion, and, being fully advised, the court finds and concludes as follows:

On May 9, 2005, plaintiffs filed a *pro se* motion to compel their attorney, Mr. Smith, to return proofs of service of summonses on the following defendants: N.A. Buffen, Nathan Roach, and Duckwall-ALCO Store, Inc. Mr. Smith filed no opposition to plaintiffs' motion to compel, and the court granted the motion on June 6, 2005. On the same date, the court granted a motion by Mr. Smith to withdraw as counsel of record for plaintiffs. On June 9,

ORDER

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1 2005, Mr. Smith filed a Motion for Reconsideration of this
2 court's June 6, 2004 Order Granting Motion to Compel.

3 Local Rule 7(h) provides:

4 Motions for reconsideration are disfavored. The court
5 will ordinarily deny such motions in the absence of a
6 showing of manifest error in the prior ruling or a
7 showing of new facts or legal authority which could not
have been brought to its attention earlier with reason-
able diligence.

8 Mr. Smith explains that while plaintiffs' motion to compel
9 was pending, as counsel to plaintiffs, he was prohibited from
10 taking any position adverse to plaintiffs' interests. Therefore,
11 Mr. Smith refrained from filing an opposition to the motion to
12 compel. Now that the court has granted Mr. Smith leave to with-
13 draw as counsel for plaintiffs, he requests the opportunity
14 oppose plaintiffs' motion. The court is of the opinion that this
15 circumstance is one which could not, with reasonable diligence,
16 have been brought to the court's attention earlier. Mr. Smith
17 acted appropriately, and his request for an opportunity to oppose
18 the motion is reasonable.

19 For the reasons stated above, the court hereby GRANTS Mr.
20 Smith's motion for reconsideration, and VACATES the June 6, 2005
21 Order Granting Motion to Compel. Mr. Smith may file an opposition
22 to plaintiffs' motion to compel no later than July 8, 2005.
23 Plaintiffs may file a reply in support of their motion no later
24 than July 22, 2005.
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1 DATED at Seattle, Washington this 23rd day of June, 2005

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4 Barbara Jacobs Rothstein
5 U.S. District Court Judge
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